

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Karen S. Bartlett

v.

Civil No. 08-cv-00358-JL

Mutual Pharmaceutical
Company, Inc.

PROCEDURAL ORDER

The parties shall jointly confer regarding whether this court's recent summary judgment ruling, see Bartlett v. Mutual Pharm. Co., 2010 DNH 112, moots or otherwise resolves or eliminates any of the issues in their pending motions, including their motions challenging expert testimony (docs. no. 128 and 142), their motions in limine (docs. no. 185-186, 188-198, 200-201, and 205), and Bartlett's motion challenging the use of former FDA officials as fact witnesses (doc. no. 168). By July 16, 2010, the parties shall jointly file with the court a list of any such issues. The parties are reminded that the purpose of this filing is to prevent unnecessary work, not to raise or argue new issues.

While the parties raised a number of new issues on yesterday's conference call, the deadline for summary judgment motions passed long ago (see doc. no. 98). The court will not accept any further motions for summary judgment. Trial remains

scheduled to begin on August 16, 2010, and all other procedural deadlines remain in effect.

The court will not conduct a pre-trial evidentiary hearing on Mutual's "comment k" defense, as requested by Bartlett on yesterday's conference call. Based on the evidence in the current record, reasonable minds could differ as to whether the defense applies, which means that it is a question for the jury. If Bartlett believes that the evidence at trial is insufficient to support such a defense, then she may move (after the close of evidence) to strike that defense from the case.

SO ORDERED.



Joseph N. Laplante
United States District Judge

Dated: July 14, 2010

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